

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

v.

Criminal No. 1:01CR5

RANDALL SCOTT MICHAEL,
Defendant.

ORDER/OPINION

On the 7th day of August 2006, came the defendant, Randall Scott Michael, in person, and also came the United States by its Assistant United States Attorney, Zelda Wesley, pursuant to a Petition for Warrant or Summons for Offender Under Supervision filed in this case on July 24, 2006, alleging Defendant:

- 1) Violated the Mandatory Condition that he not commit another federal state, or local crime.

The grounds for this alleged violation petition are as follows:

On or about June 21, 2006, the defendant wrote check #1279 on a closed Centra Bank account. This check was written in the amount of \$925.00. Subsequently, on or about June 23, 2006, the defendant wrote check #1277 on a closed Centra Bank account. This check was written in the amount of \$1925.00. Both checks were written to "Contracting Solutions," a business owned and operated by the defendant. The defendant presented these checks to Huntington Bank for deposit and withdrawal. These offenses occurred in Monongalia County, West Virginia. Criminal complaints were filed in Monongalia County Magistrate Court, Case # 06F-410 and 06F-399, on July 18, 2006, charging the defendant with Obtaining Money and Services by False Pretenses and Fraudulent Scheme.

- 2) Violated the Special Condition requiring him to pay any restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Court ordered schedule of payments.

The grounds for this alleged violation are as follows:

The defendant signed an agreement with the Financial Litigation Unit of the U.S. Attorney's office on June 8, 2004, agreeing to pay \$100 per month. In July, 2004, the Probation Officer also instructed the defendant to make \$100 per month payments. He has failed to make restitution payments per this agreement for approximately eighteen different months: July- December 2004; January, 2005; March-July, 2005; November 2005; January-April, 2006; and June 2006.

Prior to the taking of evidence, Defendant waived the preliminary hearing, thus conceding probable cause existed to forward this revocation matter to Chief District Judge Irene M. Keeley for hearing and disposition. Defendant did not admit any of the violations, however.

The Court then explained the charges contained in the Petition and the effect of the proposed waiver to Defendant and inquired of him as to the voluntariness of his decision to waive the preliminary hearing. From the colloquy between the Court and the defendant, the Court concluded Defendant's decision to waive the preliminary hearing was knowingly and voluntarily made.

Upon consideration of all which, the Court finds there is probable cause to believe that the defendant violated conditions of his supervised release as alleged and numbered 1 and 2 of the Petition for Warrant or Summons for Offender Under Supervision filed July 24, 2006.

It is therefore **ORDERED** that the defendant be bound over for a full hearing before the Honorable Irene M. Keeley, Chief United States District Judge for the Northern District of West Virginia on Violations 1 and 2 of the Petition for Warrant or Summons for Offender Under Supervision dated July 24, 2006.

It is further **ORDERED** that Defendant be continued on release pursuant to the Order Setting Conditions of Release entered on August 2, 2006.

The clerk of the court is directed to send a copy of this order to counsel of record.

DATED: August 7, 2006

/s/ *John S. Kaull*

JOHN S. KAULL

UNITED STATES MAGISTRATE JUDGE